

Decision 06-07-025 July 20, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Santa Clara for authority to construct a new recreational trail under the Peninsula Corridor Joint Powers Board Railroad, Mile Post 42.34, in the City of Santa Clara, County of Santa Clara.

Application 06-04-006
(Filed April 10, 2006)

O P I N I O N

Summary

This decision authorizes the City of Santa Clara (City) to construct a new grade-separated bicycle/pedestrian-rail crossing (crossing) under the main line tracks of the Peninsula Corridor Joint Powers Board (Caltrain), in the County of Santa Clara (County).

Discussion

I. Proposed Project

The City intends to construct a new crossing along the west bank of the San Tomas Aquino Creek, under the tracks of Caltrain's mainline. The proposed crossing will be referred to as CPUC Crossing No. 105E-42.34-B. A vicinity map and an area map of the crossing location are provided in Attachment A.

The proposed crossing is part of a project to build a trail along San Tomas Aquino Creek, Saratoga Creek and city streets, from SR 237 to the north, to Prospect Road to the south. At the location of the proposed crossing is a Caltrain bridge across San Tomas Aquino Creek, which will allow for the

construction of the crossing under the bridge. Included in the proposed project is appropriate fencing to prevent trail users from accessing the Caltrain mainline.

The new crossing will cross under two mainline tracks, with a maximum allowed operating speed of 79 miles per hour for Caltrain passenger trains and 50 miles per hour for Union Pacific Railroad (UPRR) freight trains. Caltrain operates 96 trains per day and UPRR operates four to six trains per day over this track and serves local industries.

II. Review under the California Environmental Quality Act

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e, the Commission must approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of a project that is subject to its discretionary approval, as either a lead or responsible agency under CEQA.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, the County is the lead agency for this project since the overall project passes through three cities.

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

CEQA requires that the Commission consider the lead agency's environmental documents and findings before acting on or approving this project.²

On June 30, 1999, in compliance with CEQA, the County filed its Notice of Determination (NOD) with the County Clerk of Santa Clara County. The NOD stated that with mitigations the project will not have a significant effect on the environment (State Clearinghouse Number 1998112011). Accordingly, the County adopted mitigation measures as a condition of approval of the project.

We have reviewed the County's environmental documentation. The documentation consists of the Final Initial Study, NOD and a Negative Declaration. We find that these environmental documents are adequate for our decision-making purpose.

Transportation, safety and noise are within the scope of the Commission's permitting process. The environmental documentation analyzing the proposed crossing discussed transportation.

Transportation impacts identified related to the safety of pedestrians and bicyclist crossing city streets as part of the trail system and the adequacy of parking at the staging areas. No impacts identified related to the proposed rail crossing.

Noise impacts identified related to increased noise for existing residences adjacent to the trail and that trail segments adjacent to freeways, expressways, and railways would exceed noise levels allowed for recreational uses. However, neither impact is significant since no motor vehicles will be permitted on the trail and recreational trail users are not considered sensitive receptors because the

² CEQA Guidelines, Sections 15050(b) and 15096.

exposure is voluntary and of short duration. As mitigation for the latter impact, no educational or interpretive areas will be located in areas with high noise levels.

The Commission's Rail Crossing Engineering Section (RCES) staff has inspected the site of the proposed project. After reviewing the need for and safety of the crossing, RCES recommends that the requested authority sought by the City be granted but expire if not exercised within a period of two years.

Application 06-04-006 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a highway across a railroad.

Categorization and Need for Hearings

In Resolution ALJ 176-3170, dated April 14, 2006, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received.

Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3170.

Waiver of Comment Period

This application is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission Daily Calendar on April 12, 2006. No protests have been filed.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a crossing under the main line tracks of Caltrain in Santa Clara, Santa Clara County. The new crossing number of the relocated crossing will be referred to as CPUC Crossing No.105E-42.34-B.

3. Public convenience, safety, and necessity require the construction of the new grade-separated pedestrian/bicycle-rail crossing.

4. The County is the lead agency for this project under CEQA, as amended.

5. The Commission is a responsible agency for this project, and has reviewed and considered the City's environmental documentation.

6. The County's environmental documents are adequate for our decision-making purposes.

7. Traffic and noise are within the scope of the Commission's permitting process.

8. The Commission finds that for each potentially significant impact related to traffic and noise, the County adopted feasible mitigation measures to either eliminate or substantially lessen those impacts.

9. On June 30, 1999, the County filed its NOD approving the project and found that the project would not have a significant effect on the environment.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.

2. We adopt the County's NOD and require the mitigation measures identified for purposes of our approval.

3. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Santa Clara (City) is authorized to construct a grade-separated bicycle/pedestrian-rail crossing at the west bank of San Tomas Aquino Creek, under the main line tracks of the Peninsula Corridor Joint Powers Board (Caltrain) in Santa Clara, Santa Clara County at the location and substantially as shown by the map and plans attached to the application. The new crossing will be known as CPUC Crossing No. 105E-42.34-B.

2. Appropriate fencing shall be installed on the north side of the proposed path to prevent access by users of the path to the Caltrain right-of-way.

3. City shall comply with all applicable General Orders and the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) as amended by the MUTCD California Supplement.

4. Within 30 days after completion of the work under this order, Caltrain shall notify Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work is completed.

5. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

6. A request for extension of the two-year authorization period must be submitted to RCES at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

7. This application is granted as set forth above.

8. Application 06-04-006 is closed.

This order becomes effective 30 days from today.

Dated July 20, 2006, at San Francisco, California.

MICHAEL R. PEEVEY

President

GEOFFREY F. BROWN

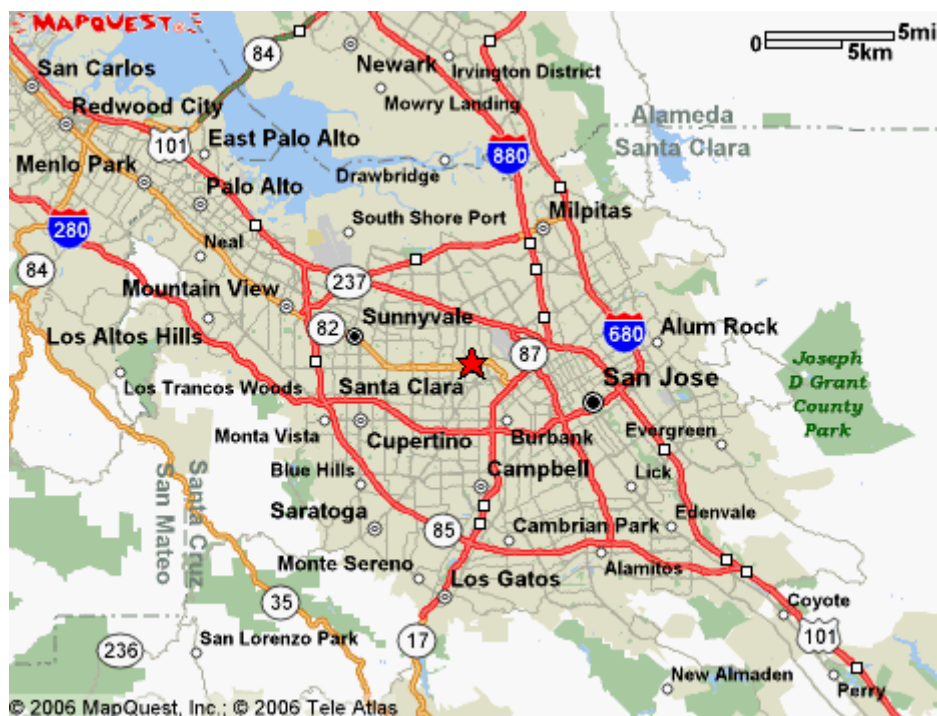
DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

Commissioners

VICINITY MAP



ATTACHMENT A**AREA MAP**